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Letter dated 19 February 2004 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey the attached communication, dated 18 February 2004, from the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina (see annex).

I should be grateful if the present letter could be brought to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex

Letter dated 18 February 2004 from the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina addressed to the Secretary-General

Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, in which the Council requested the Secretary-General to submit to the Council reports from the High Representative in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith submit to you the twenty-fifth report. I would ask you kindly to distribute this report to the Security Council members for their consideration.

(*Signed*) Paddy **Ashdown**

Enclosure

Twenty-fifth report of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General

1 September-31 December 2003

Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, in which the Council requested the Secretary-General to submit to the Council reports from the High Representative in accordance with annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present the twenty-fifth report.

Summary

More than 18 months after taking over as High Representative on 27 May 2002, I remain committed to my overarching objective of ensuring that Bosnia and Herzegovina is put irreversibly on the road to statehood and the European Union (EU). My priorities continue to centre on consolidating the rule of law and advancing economic reform — justice and jobs — while further improving the functioning and effectiveness of the key governing institutions of Bosnia and Herzegovina.

In the period since my last report, four months ago, we have continued to make measurable progress in several key areas. On the rule of law, working alongside the European Union Police Mission (EUPM) and in conjunction with the Bosnia and Herzegovina Ministry of Security, we have made great strides towards establishing a single, State-level High Judicial and Prosecutorial Council, which is expected to be in place by April 2004. Based on a law developed by my office, this multi-ethnic Council will appoint and discipline judges and prosecutors, and serve as the foundation for a new Bosnia and Herzegovina judiciary that meets the highest European standards.

The Office of the High Representative continued to oversee the establishment of a State Information and Protection Agency for Bosnia and Herzegovina. During the reporting period, a package of laws was prepared for consideration in the parliamentary process, which includes an amendment that will establish a State-level agency with appropriate law enforcement powers, professional standards and procedures, and provisions to address money-laundering and witness-protection issues.

The Specialized Department for Organized Crime, Economic Crime and Corruption of the Bosnia and Herzegovina Prosecutor's Office began investigating and prosecuting cases of major organized crime and corruption in the country. The Department includes international and domestic prosecutors who are effectively utilizing the provisions of the new Criminal Procedure Code enacted early in 2003. The Court of Bosnia and Herzegovina ruled in cases of forgery, smuggling, drug trafficking, and human trafficking, and more than 200 defendants are now being processed on additional charges. In October, the Court conducted its first trial with international judges presiding and the use of the plea-bargaining provisions of the new Code.

On 30 October 2003, a donors' conference in The Hague, organized by my office and hosted by the International Criminal Tribunal for Yugoslavia, received pledges of nearly €16 million (of an estimated €38 million needed) to launch a domestic War Crimes Chamber in Bosnia and Herzegovina. Shortly thereafter, the Office of the High Representative, EUPM and OSCE formed a group to monitor "rules of the road" cases cleared by the Tribunal and to ensure that those cases are properly investigated and prosecuted in the country.

The three expert reform commissions I launched earlier in 2003 — covering indirect tax policy, defence and intelligence, and comprising local representatives but chaired by respected international experts — completed their mandates during the reporting period and presented their findings.

The work of the Tax Reform Commission led to the establishment of a single, countrywide Indirect Taxation Authority, which transfers competency from the two entity Governments to the State level. The Parliament of Bosnia and Herzegovina adopted a law on the indirect taxation system, by which it abolished the entity customs administrations, while the Council of Ministers appointed the first Director of the Indirect Taxation Authority.

The Defence Reform Commission presented its final report in September and by the end of November the Parliamentary Assembly of Bosnia and Herzegovina and both entity legislatures enacted the new Bosnia and Herzegovina law on defence. The law will establish State-level joint command and control of the armed forces, placing Bosnia firmly on the path towards membership in the NATO Partnership for Peace programme. We are now working towards appointing a new State-level Minister of Defence.

On intelligence agency reform, I was forced to submit a draft law developed by the expert Commission directly to the Parliamentary Assembly of Bosnia and Herzegovina (after the Council of Ministers failed to consider it) and to ask the legislature to decide on the best means for adopting the law by March 2004. I am hopeful that with proper assistance the parliamentarians will play an active role in the reform process, helping to ensure that Bosnia and Herzegovina develops a modern and professional State intelligence agency capable of combating organized crime and international terrorism.

Since my last report, I also launched a new Commission under international community chairmanship aimed at unifying the ethnically divided city of Mostar and providing for economic growth there, which has been so painfully lacking since the war. In December, the Chairman produced his recommendations on how best to move forward on a solution for Mostar which ensures there exist no parallel government structures and no domination of one people over another.

A year after the endorsement of the annex VII strategy by the Steering Board of the Peace Implementation Council, I am pleased to report that our principal targets for the transition to domestic leadership on annex VII, as a guarantee of the right to return, have been achieved. With approximately 1 million people returned to their former homes, most large-scale reconstruction completed, and nearly all claimed properties repossessed by their owners, the Refugee and Return Task Force was able to cease as a discrete unit of the Office of the High Representative, having successfully completed its mandate on schedule at the end of 2003.

On 11 December, the Office of the High Representative presented a progress report on the first year of its mission implementation plan, together with the essential objectives that will form the basis of our work in 2004. The updated plan distinguishes where the work of the Office complements the goals set forth by the European Commission in its feasibility study and NATO in its Partnership for Peace requirements.

I. Introduction

1. This is my third report to the Secretary-General since taking over as High Representative on 27 May 2002. In this report, I will assess the progress made towards the goals outlined in my last report, and review developments during the reporting period.

II. The rule of law

2. My priorities have remained constant from the outset: providing first justice, then jobs, through carefully targeted reforms. Building on our earlier work, we continued to make progress during the period from 1 September to 31 December 2003. Key steps taken towards firmly establishing the rule of law in Bosnia and Herzegovina have included the following:

- On 25 September, local officials signed an agreement designed to deal with the unacceptable backlog of cases pending before the Human Rights Chamber and to redirect the flow of additional cases to the Constitutional Court. The rule of law pillar of the Office of the High Representative worked with the Constitutional Court, the Human Rights Chamber, Bosnia and Herzegovina officials at both the State and entity levels, as well as international organizations, to develop a suitable "road map" by which the mandate of the Human Rights Chamber and some staff would be transferred permanently to the Constitutional Court. After receiving endorsement from the Peace Implementation Council (PIC) at its meeting in June, we secured approval from appropriate local officials and donors in the international community.

- Throughout the month of October, the Office of the High Representative worked with Parliamentary leaders and other Federation officials to secure the adoption by the Federation Parliament of the Civil Procedure Code, among other important legislation. Adopting the code, which was developed through a working group that included local legal community members as well as the international community, proved a vital step in our efforts to foster investment in new business enterprises.

- The Office continued to work closely with Serbian officials, exchanging documents and other information as part of ongoing investigations against organized crime. These exchanges have proved invaluable to both Bosnia and Herzegovina and Serbia in their efforts to combat serious international criminal activities.

- The Office continued its leadership of a management group to establish the State Information and Protection Agency. The package of laws relating to the Agency includes an amendment to the existing law on the Agency that will establish a State-level law enforcement agency with appropriate law enforcement powers. It also provides a law on police officials that will establish professional standards and procedures for all State-level law enforcement agencies, together with a law on prevention of money-laundering and a law on witness protection. This package was drafted, considered, and revised through the joint efforts of the Office of the High Representative, the European Union Police Mission (EUPM) and other international organizations

working with a task force appointed by the Council of Ministers. The package now awaits consideration in the parliamentary process.

- During the reporting period, three additional international judges arrived to serve on the special panel of the State Court of Bosnia and Herzegovina, raising the number to five. In October, the Court held its first trial in which international judges presided. Of particular note was the use of the plea-bargaining provisions of the new Criminal Procedure Code.

- Three additional international prosecutors were appointed to serve in the special department of the Prosecutor's Office of Bosnia and Herzegovina, bringing that number to four. The Office of the High Representative provides continuing support to the Prosecutor's Office in the form of prosecutors, translators, equipment, and technical expertise, as well as working with prosecutors in both entities to assist with the investigation and prosecution of cases of financial crimes or corruption. Amendments to the laws relating to the State Court and the Prosecutor's Office of Bosnia and Herzegovina were enacted in October to remove the limits on the number of international judges and prosecutors in those bodies.

- The Criminal Institutions and Prosecutorial Reform Unit continued to assist the ministries in both entities to address problems relating to court and prosecutorial restructuring. The Unit worked with the Prosecutor's Office and the Court of Bosnia and Herzegovina to develop books of rules for the operations of the Special Department of the Prosecutor's Office and the Special Chamber of the Court. The Unit also presented a policy paper on the establishment of a civil asset forfeiture programme to PIC, in addition to drafting a proposed money-laundering law that will be the basis for establishing a comprehensive money-laundering programme.

- The rule of law pillar also undertook an analysis of the budgets at the State and entity levels for courts, prosecutors' offices, and the police to assist those Governments in the preparation of their 2004 budgets. This proved particularly challenging, given the number of new bodies created in the past year and the limitations on government expenditures imposed by international financial institutions.

- During the reporting period, several meetings were organized to discuss ideas put forth by EUPM and by the Office of the High Representative for restructuring police agencies within Bosnia and Herzegovina. This issue will become clearer once the laws relating to the Information and Protection Agency discussed above have been considered and adopted.

High Judicial and Prosecutorial Councils

3. Over the past several months, the Office of the High Representative and the Independent Judicial Council facilitated negotiations with Bosnia and Herzegovina officials on creating a single, State-level High Judicial and Prosecutorial Council. Those meetings produced a proposed agreement which was sent to all parties, together with amendments to laws necessary to carry out the agreement. In December, a draft law drawn up with input from local stakeholders was forwarded to the State Minister of Justice for introduction into parliamentary procedure. The draft law provides for a representative, multi-ethnic High Judicial and Prosecutorial

Council which will appoint and discipline judges and prosecutors, as well as regulate and supervise the administrative and budgetary affairs of the judiciary. The draft law provides the platform for a judiciary in Bosnia and Herzegovina which meets the highest European standards. Other steps towards realizing the new Council include the following:

- The Independent Judicial Council developed a transition plan to phase out its own operations by the beginning of April 2004 and to shift them to the secretariat of the permanent, nationalized High Judicial and Prosecutorial Council. The plan includes budget projections, staffing needs, organizational proposals, and timelines. The Office of the High Representative continues to advocate on behalf of a single High Judicial and Prosecutorial Council — in face of substantial opposition from the Government of the Republika Srpska — as a critical step towards developing a strong and independent judiciary, free of political interference.

- Bosnia's present High Judicial and Prosecutorial Councils, with the Independent Judicial Council acting as their secretariat, made steady progress in the reselection process for judges and prosecutors, as well as verifying all remaining applications. The Councils appointed 347 judges and prosecutors to 15 courts and 6 prosecutor's offices.

- At the end of the year, approximately 550 appointments remained to be made before the 31 March 2004 deadline to establish a single, State-level High Judicial and Prosecutorial Council. The majority of interviews have been completed, giving me confidence that the appointment process will be completed on time.

- During the reporting period, 776 new complaints were received against judges and prosecutors charged with violating their duties. The High Judicial and Prosecutorial Councils conducted several disciplinary proceedings and completed a case at second instance, rejecting an appeal against a finding of disciplinary responsibility at first instance. Meanwhile, the Office of the Disciplinary Prosecutor submitted six disciplinary indictments to the High Judicial and Prosecutorial Councils, and two cases were resolved.

- The Office of the High Representative, through the Independent Judicial Council, has continued to oversee the complete restructuring of the court system in Bosnia and Herzegovina. This process, slated for completion by April 2004, will result in a significant reduction in the total number of judges (by 28 per cent) and generate significant savings (approximately €3.6 million annually). The implementation of a streamlined court system involves 22 court mergers, two of which were successfully completed in the fourth quarter of 2003.

- Early in December, the final drafts of the entity laws on courts were completed and sent to the Ministers of Justice, to be entered into parliamentary procedure. The two laws harmonize the court structure of the entities to achieve a high degree of uniformity throughout the country. The law on courts for the Federation will replace the 10 existing cantonal laws on courts, thus simplifying the entire court organization.

- The minor offence court restructuring project started in October 2003 and issued its preliminary report in December 2003. The goal of the project is to

assess the entire system — which includes 116 minor courts and 316 judges, who handle hundreds of thousands of cases each year — and to provide recommendations for its future streamlining.

III. Attacks on networks supporting persons indicted for war crimes

4. We have continued to benefit from close cooperation with the European Union and the United States Government in this area. The European Union has maintained the visa ban list it put in place, at our initiative, against individuals suspected of obstructing the International Criminal Tribunal for the Former Yugoslavia in its mandate and providing material support to persons indicted for war crimes. The United States has frozen the assets of a number of persons on similar grounds, while seeking to identify additional supporters of persons indicted for war crimes.

IV. Jobs

5. The Office of the High Representative began the second portion of its two-stage Bulldozer Initiative, designed to help businesses in Bosnia and Herzegovina to tear down roadblocks and cut through as much red tape as possible to stimulate growth in the economy and job creation. The Bulldozer Committee identified a second allotment of 50 economic roadblocks and discussed with local businessmen and business associations legal solutions to those impediments. Adoption of the 50 new reforms is expected during the first quarter of 2004.

6. During the reporting period, the Office of the High Representative continued to drive efforts to transfer the competency for privatization of strategic enterprises from the canton privatization agencies to the Federation privatization agency, and to establish a single information point (single web site) for privatization opportunities. Of 15 enterprises scheduled for sale by tender by the end of 2003, 14 have now been published. The highest-profile privatization example involved the sale of the Holiday Inn Hotel in Sarajevo.

7. To capitalize on momentum gained on economic reforms throughout the country, the Office of the High Representative identified several clear objectives to continue pursuing over the next six months. Topping the list are full implementation of the indirect tax reforms without delay; creation of a single business registration system by adopting and implementing the framework law on business registration; and drawing up a comprehensive trade policy that promotes exports. Other priorities include creation of and improvements to institutions and services that support local businesses, such as the Foreign Investment Promotion Agency and the Standardization Institute; implementation of the domestic debt package; and acceleration of the privatization process by strengthening entity privatization agencies.

Tax and fiscal structure

8. One of the major achievements of the Office during the last quarter of 2003 was the establishment of a single countrywide Indirect Taxation Authority, transferring competency from the entity to the State level. On 29 December, the Parliament of Bosnia and Herzegovina adopted the Law on the Indirect Taxation System of Bosnia and Herzegovina, which legally abolishes the entity customs

administrations and puts into practice a unified Indirect Taxation Authority for the country. Shortly thereafter, Kemal Causevic was selected as the new Director of the Authority and appointed by the Council of Ministers to this position.

9. The Office of the High Representative also oversaw an agreement on an internal debt plan for Bosnia and Herzegovina, which removes a major obstacle to investment and job creation in the country. With considerable involvement from the Office, the State, entity and Brcko authorities agreed on a plan to settle outstanding financial claims held by citizens against the various Governments. The solution involves a combination of cash payments and issuance of bonds. Spreading payments over time was the only way for the State and entity Governments to settle claims totalling billions of euros. The Governments now must draft and implement legislation, verify all claims, and make arrangements for repayments and the issuance of bonds.

10. Over the last few months, the Office of the High Representative ensured proper execution of the annual budget drafting process and drafting of the State and entity budgets for fiscal year 2004. The setting of entity and State budgets for 2004 had to overcome the challenge of transferring new competencies and resources from the entity to the State level.

Agriculture

11. The Office of the High Representative successfully assisted the State Veterinary Institute to become operational and capable of fulfilling its international reporting requirements. Those actions are expected to generate greater confidence in local and international investors, as well as improve opportunities for producers in Bosnia and Herzegovina to export their agricultural products.

Telecommunications

12. The release of the audits of the three public telecommunications companies revealed alarming patterns of mismanagement and incompetence, which have cost consumers and taxpayers huge amounts of money. In view of this, the entity Governments committed themselves to implementing reforms aimed at improving management practices and eliminating endemic corruption in the telecommunications sector. With the support of my office, several pieces of legislation have been drafted, including the Law on Public Enterprises, the Law on Investment of Public Funds, and the Law on Public Procurement. These laws are expected to institutionalize management oversight and modern accounting standards in Bosnia and Herzegovina.

Electric power and utilities

13. During the reporting period, the Council of Ministers adopted the laws establishing the Electricity Transmission Company and the Independent System Operator, yet those laws continue to languish in Parliament. Once implemented, the laws will help to ensure the proper functioning of the electricity transmission system and the further integration of Bosnia and Herzegovina into the European Union internal electricity market. Progress also was made towards finalizing the legal framework in the utilities sector.

Transportation

14. The Law on Civil Aviation was adopted by the Parliament in December and is expected to come into force soon.

Public administration and civil service reform

15. On 1 September, the public administration reform process — a core task on the reform agenda of the Office since the authorities of Bosnia and Herzegovina presented it to the PIC Steering Board in March 2003 — was further strengthened by the appointment of a National Coordinator at the Ministry of Justice responsible for managing and overseeing the reform agenda. The Coordinator has the task of overseeing development towards a more efficient and affordable public administration, as an essential prerequisite for European integration.

16. Throughout the reporting period, the Office of the High Representative was involved in the recruitment process for the first Director of the Federation Civil Service Agency, following the entry into force of the Federation Civil Service Law in July. Proper supervision of the Agency is essential to prevent party patronage during the hiring of civil servants. The Office continues to closely supervise the final phase of this process — which includes the staffing and establishment of the Agency, and the full implementation of the legislation at the entity, cantonal and municipal levels — by consulting with the United Nations Development Programme (UNDP) to ensure the application of international standards and selection criteria. UNDP has pledged additional financial and technical support, but more funds are required to make certain that an effective and efficient instrument is established which rewards recruitment of public officials solely on the basis of merit.

V. Political environment

17. The reporting period was marked by political clashes between the Government and the opposition, coupled with growing tensions in the ruling coalition, dominated by the three national parties. The opposition parties from both entities have been making some attempts to consolidate forces in advance of the October 2004 municipal elections. These included the signature of a joint platform, taking advantage of continuing economic difficulties in Bosnia and Herzegovina, and a common desire for early general elections. The output of the Governments, and the State institutions in particular, remains low, while the inevitability of reform looms large.

18. In November, the European Commission issued its feasibility study for Bosnia and Herzegovina, concluding that it hopes to be able to recommend the opening of negotiations on a Stabilization and Association Agreement next year, but only on condition that Bosnia and Herzegovina makes significant progress in a number of areas identified as priorities for action. In December, NATO issued clear benchmarks for the entry of Bosnia and Herzegovina into the Partnership for Peace programme.

19. Two important reforms in the areas of defence and taxation were adopted at the State level in December, establishing two key institutions with State-wide competencies. The Defence Law gives the Presidency of Bosnia and Herzegovina command and control of the armed forces across the country, taking this competency

away from entity level. It also establishes a Ministry of Defence for Bosnia and Herzegovina with a policy-setting role in all matters and a new operational command at the State level. The Law on Indirect Taxation establishes the State-wide Indirect Taxation Authority, which, for the first time in the post-war history of Bosnia and Herzegovina, will provide a guaranteed source of income to the State treasury. The Parliament of Bosnia and Herzegovina passed these two laws with the support of the entity parliaments, although strong international pressure on the Governments and parliaments was necessary for the adoption of the two reforms.

20. Relations between SDA and HDZ — the two main governing parties in the Federation — remain strained, sustaining parallelism along ethnic lines, in spite of the constitutional changes introduced two years ago. Increasing political rivalry within the SDA party leadership, in part triggered by the illness and death of the party's founder and first President of Bosnia and Herzegovina, Alija Izetbegovic, has had a particular impact on the Government of the Federation; there are persistent rumours that the Prime Minister, Ahmet Hadzipasic, and his Government will be replaced. In the Republika Srpska, social unrest is more apparent, though tensions in the governing coalition have not led to the often-predicted changes in the Government. Much debate continues to focus on the constitutional position of the Republika Srpska, given the State's assumption of new competencies in the fields of security and taxation. Debate has now turned to the creation of a single intelligence agency for the whole of Bosnia and Herzegovina and the strengthening of State-level police functions — both core conditions for further European integration.

21. On 15 September, after the Commission led by the City Council failed to produce a new statute for the City of Mostar, I established a Commission chaired by an international expert. In December, the Chairman produced his recommendations, mapping out the steps that must be taken to ensure that the City of Mostar has a unified administration capable of delivering adequate services and economic growth for all the citizens of Mostar. SDA and HDZ obstructed the adoption of the new statute, voicing their desire to retain the parallel structures that have benefited both parties at the expense of citizens.

22. The once disputed Brcko District also moved forward in the latter part of the year, particularly in regard to judicial reform and property repossession. The Brcko Assembly succeeded in adopting a long-awaited but controversial Election Law in the summer, enabling the Brcko Supervisor to schedule the District's first local elections, to be held together with the Bosnia and Herzegovina municipal elections planned for October 2004.

Security and defence

23. On 25 September, the Defence Reform Commission presented its report, which included a proposed Law on Defence for Bosnia and Herzegovina, establishing a State-level joint command and control of the armed forces of Bosnia and Herzegovina, as well as a new State Minister of Defence. The Commission's legislative proposals and recommendations matched the guidelines for membership in the NATO Partnership for Peace programme and the OSCE politico-military commitments of Bosnia and Herzegovina.

24. By the end of November, the Law on Defence and amendments to the entity constitutions were enacted by the Parliamentary Assembly of Bosnia and Herzegovina and by the legislatures of the Federation of Bosnia and Herzegovina

and the Republika Srpska. The Defence Reform Commission also produced a set of recommendations relating to the development of a common law on the army of the Federation and introduction of parliamentary democratic control over the armed forces. The Commission gave special attention to the need for the armed forces of Bosnia and Herzegovina to be affordable, proposing the downsizing of many elements of the defence establishment. It also suggested that Bosnia and Herzegovina look beyond Partnership for Peace and make an explicit commitment to achieving membership in NATO in the future. The Commission's recommendations provide a basis for additional reforms required to fulfil this aspiration.

25. At its meeting on 4 December, the North Atlantic Treaty Council noted that passage of the Defence Law proved Bosnia and Herzegovina a credible candidate for the Partnership for Peace and emphasized that it was looking forward to welcoming Bosnia and Herzegovina into the Partnership for Peace once the conditions set by the Alliance had been met. The Council urged Bosnia and Herzegovina to envisage the Istanbul Summit as a realistic target by which it could meet the outstanding conditions.

26. During the reporting period, a Joint Defence and Steering Committee of the Parliamentary Assembly of Bosnia and Herzegovina was put into operation, manifesting the principle of parliamentary oversight. The Presidency was urged to move ahead quickly to appoint the key State-level positions with the hope that the Minister of Defence and Deputies would be in post by mid-February. Preparations for the transition of the Standing Committee on Military Matters Secretariat into a Ministry of Defence were initiated and progress was made towards restructuring; final organizational proposals are scheduled for presentation at the end of January 2004.

27. In order to oversee the implementation of the recommendations of the Defence Reform Commission and assist Bosnia and Herzegovina in reaching the target of meeting the conditions for the Partnership for Peace by the Istanbul Summit, I issued a decision in January extending the mandate of the Commission until the end of 2004.

Intelligence reform

28. At the end of August, after two months of deliberation, the expert Commission on Intelligence Reform finalized the draft law on the intelligence and security agency, which was sent to local and international experts for comment. The draft law was well received by academics and practitioners, and significant parts of it have been used by the Geneva Centre for the Democratic Control of Armed Forces in its effort to create an intelligence oversight model law.

29. In mid-September, the draft law was submitted to the Council of Ministers, which proved reluctant to consider the law. This lack of progress raised concerns, especially in the light of renewed terrorist outrages abroad. Government procrastination threatened to disrupt earlier progress made in unifying the Bosnia and Herzegovina intelligence and security sector at the State level, while exacerbating the danger that the country's insufficient security service poses to its citizens.

30. On 18 December, after making minor amendments to the draft law, I submitted it directly to the Bosnia and Herzegovina Parliamentary Assembly and asked the

legislature to decide on the most appropriate procedure to ensuring adoption of the law by 1 March 2004. The law envisages the creation of a single intelligence agency by April.

31. I have made it clear that it is now up to the parliamentarians of Bosnia and Herzegovina to regulate the intelligence and security sector in accordance with established European standards. I am confident that they will confirm the Parliamentary Assembly's will to play a full and active role in the reform process, in particular when it comes to reforms such as those that have been outlined in the European Commission feasibility study. Bosnia and Herzegovina needs a modern, professional State intelligence agency that will empower the country to meet its obligations, fighting against organized crime, international terrorism, and other threats. As recent international events have shown, Bosnia and Herzegovina can no longer afford to have an intelligence-security sector effectively outside proper State control.

Mostar

32. As indicated in my last report, I launched a second commission for the reform of the City of Mostar, which remains, eight years after the war, a collection of municipalities without coordination or the capacity to generate development, threatening to destabilize Bosnia and Herzegovina as a whole. In mid-September, I issued a decision establishing the new Commission, with the mandate of drafting a permanent statute for the City of Mostar, and asked Norbert Winterstein from Germany to serve as Chairman. The Mostar Commission included members nominated by the Bosnia and Herzegovina political parties represented in the City Council of Mostar, in addition to several local and international experts.

33. In the period immediately prior to the start of the Commission, one of my senior Deputies, Ambassador Werner Wnendt, held extensive consultations with stakeholders in Mostar and throughout Bosnia and Herzegovina. Those meetings resulted in the signing of a commitment to participate in the work of a second commission.

34. Over the next several weeks, the Commission held 14 sessions in which all relevant subjects for a new statute were extensively discussed. While the Commission members were able to agree on the majority of items in the text of the new statute, the set deadline of 15 December expired without a final agreement. Two crucial questions — the system of elections and the status of the existing municipalities — split members of the Commission, preventing an agreement on the statute from being reached. The Chairman attempted to bridge the gap between competing standpoints by providing his own proposal to serve as a compromise solution. Some representatives from the Croat-dominated parties (led by HDZ) disagreed with the election system, while leaders from the Bosniak side (led by SDA) objected to the abolition of the municipalities.

35. The Office of the High Representative carefully examined the Chairman's proposal and concurred with him that abolition of the municipalities was essential to unifying the city and preventing the continuation of the parallel structures that have divided Mostar along ethnic lines. The proposal also sets out to establish an election system that precludes domination of one group of people over another in the City Council, thereby protecting minority rights.

36. Late in December, I asked for those engaged in the work of the Commission to further explore ways to develop a permanent statute for Mostar by the end of January 2004, not ruling out the possibility of amendments to the Chairman's proposal. I discussed with Ambassador Wnendt how he and I could launch activities early in 2004 to press for a timely solution, including personal involvement in a round of extensive consultations with party representatives and members of Mostar civil society.

37. Our interlocutors, including PIC members, agreed with this strategy and with the idea that, should the talks fail to produce a solution agreeable to the parties by the end of January, I would be compelled to impose a new statute for Mostar, as was the case. I mandated my office to begin developing a strategy for implementation of reforms, which would involve the international community while fostering local ownership as far as possible.

Srebrenica

38. On 20 September, the former President of the United States of America, Bill Clinton, was guest of honour at the opening ceremony of the Srebrenica-Potocari Memorial and Cemetery, commemorating those who suffered from atrocities committed in Srebrenica in July 1995. In conjunction with the ceremony, 107 identified individuals were buried at the site.

39. Following my recommendation that a private citizen of Bosnia and Herzegovina take over from me the chairmanship of the Executive Board of the Foundation of Srebrenica-Potocari Memorial and Cemetery, Beriz Belkic was appointed 28 October as the new chair. Mr. Belkic, a former member of the State Presidency, was joined as co-chairman by Amor Masovic, who is head of the Federal Commission for Missing Persons and Exhumations. I remain an active member of the Foundation and plan to continue my engagement and support, particularly in fund-raising efforts for this important project.

40. On 6 December, the Executive Board appointed Mersed Smajlovic as Director of the Service of the Foundation. This appointment was made following a public vacancy announcement placed by the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and following interviews conducted by representatives of the Foundation. Mr. Smajlovic took over the work from my office, which continued to provide full support and coordination tasks until the end of 2003.

Srebrenica Commission

41. Early in September, the Government of the Republika Srpska made its initial payment of KM 2 million (€1 million) to the Srebrenica-Potocari Foundation, as prescribed in the decision of the Bosnia and Herzegovina Human Rights Chamber of March 2003, to compensate families of persons missing since the 1995 massacre. The decision calls for an additional KM 2 million to be paid out in KM 500,000 allotments over the next four years.

42. On 8 September, the Government of the Republika Srpska provided a report to the Human Rights Chamber, as outlined in its decision, purporting to disclose information about the deceased and their whereabouts. In response, I noted during a press conference on 15 October: "This report shows a marked change in tone by the Republika Srpska authorities, but not yet a change in substance". I praised the

Republika Srpska for recognizing in its report the scale of crimes committed in Srebrenica and the suffering brought upon the families there, but I criticized them for failing to provide sufficient information concerning the events which occurred. I urged the leadership of the Republika Srpska to establish an independent commission with the task of reporting exactly what happened in and around Srebrenica.

43. In line with my proposal, the Government of the Republika Srpska adopted on 15 December a draft decision establishing the Srebrenica Commission, mandated among other duties with investigating and reporting on missing persons. While I am encouraged by this development, I wrote in a letter dated 19 December to the President and the Prime Minister of the Republika Srpska that I thought it "regrettable that this Commission has taken so long to start its work". I added in that letter that the Srebrenica Commission should complete its task and publish its final report by 14 April 2004 and that "any attempt to obstruct the work of the Commission would be regarded as a clear attempt to obstruct the rule of law". I also confirmed the nomination of Gordon Bacon as the Commission's chief of staff and Smail Cekic as its representative to the survivor community, and announced that two international observers would be part of the Commission — one staff member from the International Criminal Tribunal for the Former Yugoslavia and one from the Office of the High Representative.

44. At its fifty-third session, on 25 December, the Government of the Republika Srpska appointed seven members to the Srebrenica Commission prior to its opening session in Banja Luka on 12 January 2004. I publicly applauded the Republika Srpska authorities for including their Ministries of Defence and the Interior in the Commission's work. I emphasized that I intend to hold those ministries, as well as the Republika Srpska army and intelligence services, under a moral and political obligation to provide full and unconditional cooperation to the Commission.

Bosnia and Herzegovina in the region

45. Significant steps towards reconciliation between the former warring States of Bosnia and Herzegovina, Croatia and Serbia and Montenegro were taken during the reporting period. On 10 September, the President of Serbia and Montenegro, Svetozar Marović, publicly apologized to the President of Croatia, Stjepan Mesić, during his trip to Belgrade for atrocities committed against Croatian citizens during the war. On 13 November, President Marović extended another public apology during the Inter-State Cooperation Council meeting "for every evil or tragedy that anyone in Bosnia and Herzegovina suffered from anyone from Serbia and Montenegro".

46. A positive signal was sent on 2 October when Bosnia and Herzegovina, Croatia and Serbia and Montenegro concluded a tripartite agreement by signing the Protocol on the Three-Point Border between the countries. That agreement establishes on paper the two points where the borders of the three countries meet and proclaims that those borders cannot be removed.

47. Bosnia and Herzegovina also took steps to simplify the movement of people among the three countries by signing bilateral agreements separately with Croatia and with Serbia and Montenegro. These agreements enable citizens of Bosnia and Herzegovina to pass across borders carrying only personal identification cards.

The Tribunal and domestic war crimes prosecutions

48. On 30 October, the Office of the High Representative organized a donors' conference hosted by the International Criminal Tribunal for the Former Yugoslavia at The Hague to raise funds to implement the War Crimes Chamber project. The conference resulted in pledges of €15.7 million (nearly half of the estimated total of €38 million needed) for the operations of the domestic War Crimes Chamber during its first two years.

49. The Office of the High Representative, EUPM and OSCE formed a group to monitor "rules of the road" cases cleared by the Tribunal and returned to the local law enforcement and prosecutorial agencies. This group was given the task of tracking those cases to ensure that they are appropriately investigated and prosecuted after clearance by the Tribunal. During the reporting period, the Tribunal participated in meetings held by the group to resolve a number of key issues. The Office of the High Representative referred several cases to the Bosnia and Herzegovina Prosecutor's Office, which, in each instance, were sent to the Special Department for further investigation.

50. As mandated by the Steering Board in June 2003, the Office of the High Representative established a Multi-Agency Implementation Task Force. The Implementation Task Force, co-chaired by one of my senior deputies and the Bosnia and Herzegovina Ministry of Justice, developed a detailed management plan during the reporting period. The working groups initiated by the general secretariat of the Task Force to address issues relevant to the establishment of the Chamber — such as legislation, witness protection and case review — held a series of constructive meetings involving all relevant national and international agencies.

51. On 5 December, the Joint Executive Board of the Implementation Task Force held its inaugural session. All relevant Bosnia and Herzegovina authorities participated in the meeting, together with several international agencies, including the Tribunal, OSCE, the Council of Europe, SFOR, EUPM, UNHCR and OHCHR. All members of the Board committed themselves to establishing the War Crimes Chamber and participating in the multi-agency working groups.

VI. Returns

52. The Office of the High Representative made considerable progress in the return of refugees and displaced persons during the reporting period, preparing the ground for the closure of the Refugee and Return Task Force as scheduled at the end of 2003 and the transfer of its annex VII responsibilities to Bosnia and Herzegovina authorities. The activities included key legislative reforms, the result of which was a set of amendments to the State law on refugees from Bosnia and Herzegovina and displaced persons in Bosnia and Herzegovina.

53. According to UNHCR statistics, by the end of 2003 the total number of registered returns to and within Bosnia and Herzegovina had risen to nearly 1 million people, including some 430,000 so-called minority returns. Approximately 350,000 refugees and displaced persons, as estimated by the Bosnia and Herzegovina Ministry for Human Rights and Refugees, still had not returned to their pre-war homes, although many among them still expressed the desire to do so. This was encouraging information that shows potential for a continuing return movement.

54. During the reporting period, the countrywide property repossession rate rose above 90 per cent. This rate indicates substantial completion of the property laws implementation, promising its finalization in all Bosnia and Herzegovina municipalities early in 2004. While no major internal obstacles to achieving this goal are expected, there still exist problems with refugees in Bosnia and Herzegovina who remain unable to repossess property in their countries of origin and continue to occupy the pre-war homes of citizens of Bosnia and Herzegovina. For instance, more than 20,000 Croatian Serbs are still trying to return to Croatia, and my office welcomed commitments made recently by the Government of Croatia to address this problem.

55. On 30 September, the Bosnia and Herzegovina Parliamentary Assembly adopted amendments which identified the Ministry for Human Rights and Refugees as the main policy-making and supervisory body for annex VII issues. The amendments provided for a field presence of the Ministry through the establishment of four regional centres (Banja Luka, Mostar, Sarajevo and Tuzla). They also strengthened the role of the Bosnia and Herzegovina Commission for Refugees and Displaced Persons as the main coordinating body between the State, entities and Brcko District, and established the Return Fund as a State-level institution responsible for the financial realization of return and reconstruction projects.

56. The Office of the High Representative also remained heavily engaged in the transfer of responsibilities to domestic authorities for the Commission for Real Property Claims, as established under annex VII. The activities include transferring the Commission's databases and records to Bosnia and Herzegovina bodies, putting in place entity legislation for the takeover of undecided claims, and identifying the body for reconsideration of the Commission's decisions. The Framework Agreement providing for the realization of these activities, however, was not signed. As this failure calls into question not only the actual transfer of the Commission's responsibilities but also some basic rights of the people of Bosnia and Herzegovina, my office appealed to the responsible Bosnia and Herzegovina authorities urgently to resolve this issue.

57. Significant progress was made on sustainability, including putting in place a legal framework necessary to ensure returnees' unbiased access to socio-economic facilities and opportunities. The Office of the High Representative continued developing information campaigns to inform returnees about the applicable laws and their rights stemming from those laws, especially on access to health care and on reconnection to utility networks.

58. The Office developed a media programme and information booklet on agricultural production as a means of income to assist returnees. We passed on to the Sarajevo Economic Region Development Agency a web service (www.posao.ba) related to this media campaign, which is expected to be available in local employment bureaux.

59. We also remained active in identifying alternative sources of funding the ongoing return process. As a result, Bosnia and Herzegovina became a member of the Council of Europe Development Bank, entitled to loans for financing return and reconstruction projects. At a time of declining international funds in Bosnia and Herzegovina, there is no doubt that this membership will be of the utmost importance in achieving substantial completion of annex VII by the end of 2006, as foreseen by the Ministry for Human Rights and Refugees.

60. Given the level of progress achieved in the return sector in 2003, it was possible to close the Refugee and Return Task Force as a discrete function of the Office of the High Representative on 31 December and to transfer its implementation role to the Ministry for Human Rights and Refugees and other newly established institutions. The Office has retained a small annex VII Verification Unit to actively monitor the process and to advise our domestic partners on the realization of their strategic goals.

VII. European Union Police Mission

61. As the first European Union crisis management mission, the European Union Police Mission has now become a well-established feature of police life in Bosnia and Herzegovina. Currently, the Mission consists of nearly 500 police officers and some 60 civilian experts from 33 States. For the first time, the Russian Federation has also contributed personnel to the Mission. Commissioner Sven Frederiksen led the Mission with great professionalism and commitment. When writing this report, I received the dreadful news of Sven's sudden passing away. I would like to pay special tribute to this great policeman and friend, whose biography is proof of his commitment to bringing peace and stability in the Balkans.

62. The Commissioner and his mission have been able to count on my total and continued support, as part of the EUPM chain of command and High Representative, for his and the Mission's work. Throughout the past year, I did not use my powers to enforce the decision I issued on 23 January 2003. That decision enables EUPM to recommend to me the removal, as a last resort, of police officers who obstruct the implementation of the General Framework Agreement through their proven failure to follow domestic law in terms of initiating and/or conducting appropriate disciplinary procedure.

63. The EUPM programmes aimed at creating sustainable policing arrangements under Bosnia and Herzegovina ownership and in line with the best European and international standards have become well established in the past period. The strengthening of the State-level law enforcement agencies, the fight against organized crime (in particular trafficking in human beings), and the safety and security of returnees have continued to be EUPM priorities.

64. The European Commission feasibility study (part of the EU stabilization and association process) that was published in November 2003 has underlined the need for further reforms in the Bosnia and Herzegovina police. The study has particularly stressed the need for reinforcing the State-level law enforcement capacity as well as the need for further restructuring and rationalizing the Bosnia and Herzegovina police forces.

65. During the last months of 2003, both the Commissioner and I were faced with inappropriate political interference in the police of the Federation of Bosnia and Herzegovina. Those attempts to undermine professional policing by political meddling occurred in three cantons and at the Federation level and were conducted in particular, but not solely, by SDA. We have sent a strong message to all Bosnia and Herzegovina politicians reminding them that this kind of intervention cannot and will not be tolerated. We have managed to reverse further political interference in the police, but both EUPM and I must remain vigilant since this problem has the potential of re-emerging in the future.

66. The most serious development facing policing in Bosnia and Herzegovina involves the increasing number of challenges to the police certification process, which was conducted by the International Police Task Force (IPTF) during its mandate in Bosnia and Herzegovina. Attempts to overturn the certification process have in general been undertaken by police officers who were denied certification and who have brought their cases to court. Some local courts have ruled in favour of the officers, stating that at the time of their dismissal (resulting from being denied certification) the Ministry of the Interior did not apply domestic legislation. There is a serious risk that in the near future the international community will be confronted with the reinstatement of police officers denied certification by IPTF. It is essential that this piece of "unfinished business" be tackled by the United Nations, the authorities of Bosnia and Herzegovina and the organizations operating there with the urgency it requires.

67. The seriousness of this issue cannot be overstated. It is crucial that the IPTF legacy, which laid the foundation for a professional Bosnia and Herzegovina police force, is protected and defended with the utmost vigour, including by the United Nations. If not, there is a very real risk that the United Nations policing legacy in Bosnia and Herzegovina will unravel, inflicting grave damage not just on the United Nations reputation in Bosnia and Herzegovina but also, crucially, on progress made in establishing the rule of law in the country — not just in the field of policing, but in other areas too, such as the judiciary. After consultation with EUPM and the local United Nations representatives, I have repeatedly sought advice from the United Nations on how the United Nations would like to see this issue tackled in a manner that secures the achievement of the United Nations Mission in Bosnia and Herzegovina. Thus far no satisfactory and workable solution has been found. The urgency of the matter requires immediate attention, including that of the United Nations.

VIII. Media development

68. In line with the European Commission feasibility study requirement that Bosnia and Herzegovina reform its public broadcasting system, my office has been working closely with the Commission to monitor the adoption of legislation conforming to European media standards. We have been encouraging Bosnia and Herzegovina authorities to take the necessary steps to ensure the long-term viability of a financially and editorially independent and integrated State-wide public broadcasting system whose constituent broadcasters share a common infrastructure.

IX. Mission implementation plan

69. In December, the Office of the High Representative presented an update to its mission implementation plan for endorsement by the PIC Steering Board. This comprehensive document served as a formal report and assessment of the first year of the plan, as well as setting out clearly the core tasks which remain for me and my office. (The full text of the original mission implementation plan, introduced in January 2003, can be found on our web site at http://www.ohr.int; the updated plan will be added there soon.) In the light of progress made over the past year, we have reduced the number of core tasks remaining for the Office from six to four, as follows:

- Entrenching the rule of law
- Reforming the economy
- Strengthening the capacity of the governing institutions of Bosnia and Herzegovina, especially at the State level
- Establishing State-level civilian command and control over the armed forces.

70. Each core task is divided into several subprogrammes, and departments of the Office of the High Representative are responsible for defining and implementing the steps to achieve these essential objectives. Each subprogramme identifies a transition point at which that programme can be considered completed or handed over to a lead domestic authority to finish, often in concert with an international agency. We have made clear in the text of the updated mission implementation plan those areas where the work of the Office overlaps with the 16 priority goals set by the European Commission in its feasibility study and NATO in its Partnership for Peace requirements. We plan to conduct another assessment of the plan towards the middle of 2004.

X. Reporting schedule

71. In keeping with my proposal to provide my reports to you on a more regular schedule, for onward transmission to the Security Council as required by Council resolution 1031 (1995), I plan to submit my next report in July 2004. That report will cover the period from 1 January to 30 June 2004. I plan for subsequent reports also to cover six-month periods. Should you or any Council member require information at any other time, I would be pleased to provide an update in the form of a letter.